

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

ANITA MARIE KUEHNER, ET AL.

Appellants

v.

JASON KANDER

Respondent

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DOCKET NUMBER WD77899

DATE: September 18, 2014

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Appeal From:

Circuit Court of Cole County, MO  
The Honorable Daniel Richard Green, Judge

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Appellate Judges:

Division Special Division  
Thomas H. Newton, P.J., Mark D. Pfeiffer, and Cynthia L. Martin, JJ.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

ANITA MARIE KUEHNER, ET AL., Appellants, v. JASON KANDER, Respondent

**WD77899**

**Cole County**

Before Special Division Judges: Newton, P.J., Pfeiffer, and Martin, JJ.

TeachGreat.org, a political action committee, submitted an initiative sample sheet to the Secretary of State's Office relating to a proposed amendment to Article IX of the Missouri Constitution. The proposed amendment concerns parameters of teacher employment and retention within school districts. It was identified as Initiative Petition 2014-024 (Petition). TeachGreat.org later submitted more than 25,000 signature pages to the Secretary of State's Office in support of the Petition.

Appellants, teachers employed by the Francis Howell School District, filed suit in the Circuit Court of Cole County for declaratory judgment and injunctive relief. Appellants are covered by a collective bargaining agreement, which includes a "teacher performance evaluation regulation," through June 2016. They argued that the Petition supports a constitutional amendment that: (1) "amends more than one article of the constitution and contains multiple subjects"; (2) "does not contain the full text of the measure"; and (3) "fails to comply with section 116.050.2."

The Secretary of State filed an answer, arguing that Appellants' claim should be dismissed as untimely, unripe, and for failure to state a claim for which relief could be granted. TeachGreat.org and its treasurer, John C. Cozad, jointly filed an answer as intervenors, also arguing that Appellants' claim should be dismissed, for similar reasons. Additionally, TeachGreat.org and Cozad jointly filed a motion as intervenors for judgment on the pleadings. The Secretary of State later certified that, pursuant to the Missouri Constitution and section 116.050, the Petition contained enough valid signatures to enable the proposed amendment to be included on the November 2014 ballot as "Constitutional Amendment 3" (Initiative).

A hearing was held. The trial court entered judgment against Appellants. It found that, as a matter of law, the Initiative does not infringe upon Article XII, section 2(b), or Article III, section 50, of the Missouri Constitution, nor does it violate section 116.050. It dismissed Appellants' claim and denied all relief requested. Appellants appeal.

**AFFIRMED.**

**Special Division Holds:**

*Jurisdictional statement* – This appeal involves challenges to a Petition in support of a proposed constitutional amendment that has been certified to be included on the November 2014 ballot. Appellants have appealed to this court to reverse the certification of the Petition. Generally, such constitutional challenges are not ripe for adjudication until after the results of an election are known. However, we are authorized to conduct pre-election review of the facial

constitutionality of initiative petitions. Moreover, the Missouri Supreme Court does not retain exclusive jurisdiction in this matter because it concerns a pre-election challenge that involves an allegation of unconstitutionality, and not substantive constitutional issues.

*The Appeal* – Appellants raise three points. In the first point, Appellants argue that the trial court erred as a matter of law in failing to reverse the certification of the Petition because the Initiative “violates Article III, section 50, and Article XII, section 2(b), of the Missouri Constitution.” They contend that the Initiative, specifically section 3(i), would not only amend Article IX, which concerns education, but also Article I, section 29, which concerns collective bargaining. Reading section 3(i) in context, it is apparent that it merely acknowledges Article I, section 29, by including *text from* Article I in the proposed amendment to Article IX. The mere reference to Article I, section 29, does not directly or by implication amend Article I, section 29. Point one is denied.

In the second point, Appellants argue that the trial court erred as a matter of law in failing to reverse the certification of the Petition because the Initiative “violates Article III, section 50, and Article XII, section 2(b), of the Missouri Constitution” in that it “contains two subjects.” Appellants contend that the purposes contained within the Initiative are impermissibly broad. We disagree. When reviewing the language of each section contained within the Initiative, it is clear that its central focus is on the parameters of teacher employment and retention within school districts. Accordingly, because a “readily identifiable and reasonably narrow” focus exists to connect these provisions into a “central purpose,” this Initiative does not violate the single subject rule. Point two is denied.

In the third point, Appellants argue that the trial court erred as a matter of law in failing to reverse the certification of the Petition because the Initiative “violates Article III, section 50, of the Missouri Constitution and [RSMo] section 116.050” by “fail[ing] to set out the full text of Article I, section 29, which [it] amends.” Reviewing section 116.050 by its plain and ordinary meaning does not include such a requirement; moreover, such a requirement might cause the initiative process to be stifled. Additionally, pursuant to the analysis contained in point one, we do not agree with Appellants’ assertion that this Initiative would amend Article I, which renders moot their argument that the failure to include full text of Article I, section 29, “violates Article III, section 50.” Therefore, point three is denied.

Opinion by Thomas H. Newton, Presiding Judge

September 18, 2014

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